

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

UNITED STATES OF AMERICA	)	NO. 4:16-CR-409
	)	
	)	
VS.	)	Houston, Texas
	)	10:58 a.m.
	)	
DOUGLAS RAY	)	March 30, 2017

\*\*\*\*\*

**SENTENCING**

**BEFORE THE HONORABLE ALFRED H. BENNETT**

**UNITED STATES DISTRICT JUDGE**

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APPEARANCES:

FOR THE GOVERNMENT:

Mr. Arthur R. Jones  
United States Attorney's Office  
1000 Louisiana, Suite 2300  
Houston, Texas 77002  
Tel: 713-567-9357

MR. Kevin Gingras  
U.S. Department of Justice  
1301 New York Avenue, Suite LL02  
Washington, DC 20005  
Tel: 202-714-0735

FOR THE DEFENDANT:

Mr. Timothy D. Belevetz  
Holland & Knight  
800 17th St NW, Suite 1100  
Washington, DC 20006  
Tel: 202-469-5080

1 COURT REPORTER:

2 Ms. Kathleen K. Miller, CSR, RMR, CRR  
3 515 Rusk, Room 8004  
4 Houston, Texas 77002  
Tel: 713-250-5087

5 Proceedings recorded by mechanical stenography.  
6 Transcript produced by computer-assisted transcription.  
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**P R O C E E D I N G S**

(Defendant Present.)

THE COURT: Cause Number 16-CR-409-001, United States of America versus Douglas Ray.

Counsel, please make your appearances for the record.

MR. JONES: Good morning, Your Honor, Rob Jones and Kevin Gingras for the United States.

MR. GINGRAS: Good morning, Your Honor.

THE COURT: Good morning. Still.

MR. BELEVETZ: Good morning, Your Honor, Tim Belevetz for the defendant, who is present.

THE COURT: Belevetz, is that -- did I do it right?

MR. BELEVETZ: Yes, sir. Belevetz.

THE COURT: Belevetz. And, sir, what is your name?

THE DEFENDANT: Douglas Glen Ray.

THE COURT: Let the record reflect that the defendant is present, and is represented by legal counsel.

This is a sentencing hearing in this case, and I want to describe the Court's sentencing procedures.

The Supreme Court has held in *United States vs. Booker* that the United States Sentencing Guidelines are advisory, not mandatory for judges. *Booker*

1 requires a sentencing court to consider guideline ranges,  
2 but it permits the Court to tailor the sentence in light of  
3 other statutory concerns as well.

4                   The Court in the exercise of its  
10:59:36 5 sentencing discretion will rely on the factors set out in  
6 Section 3553(a) to fashion an appropriate sentence to  
7 achieve the Congressionally mandated purposes of sentencing  
8 as set forth in the Sentencing Reform Act of 1984. The  
9 Court will endeavor to faithfully apply the directives  
10:59:52 10 within the guidelines to determine the total offense level  
11 and criminal history category under the guidelines.

12                   The Court will exercise its discretion to  
13 determine the appropriate sentence. In so doing the Court  
14 will give considerable weight to the sentencing range  
11:00:09 15 calculated under the guidelines. Any comments by the Court  
16 during the course of this sentencing are not to be  
17 construed as indication that the Court, in fact, believes  
18 that the guidelines are mandatory or that they constrain  
19 the Court's ultimate sentencing discretion.

11:00:22 20                   The standard of proof for factual findings  
21 in connection with sentencing is preponderance of the  
22 evidence. In determining whether that standard is met, a  
23 presentence report is generally considered sufficiently  
24 reliable to be considered by the trial court as evidence in  
11:00:35 25 making the factual determinations required by the

1 sentencing guidelines.

2                   In this case, I have received the  
3 presentence report from the probation office, as well as  
4 the addendum to the presentence report, the second addendum  
11:00:52 5 to the presentence report. I have received a signed  
6 victim-impact statement; the order -- preliminary order of  
7 forfeiture; the government's motion for 5K1. Are there any  
8 other documents from the government's perspective that the  
9 Court should have reviewed prior to today?

11:01:56 10               MR. JONES: Not that I can think of, Your  
11 Honor.

12               THE COURT: Very well. Are there any other  
13 documents that the Court should have reviewed prior to  
14 today from the defense's perspective?

11:02:04 15               MR. BELEVETZ: Your Honor, I am not sure  
16 whether the Court mentioned this, but we filed an objection  
17 to the PSR, and then our sentencing position, and that is  
18 it.

19               THE COURT: Very well. Is it my understanding  
11:02:46 20 that the government has no objection to the presentence  
21 report?

22               MR. JONES: That is correct, Your Honor.

23               THE COURT: Very well. As to the defense, I  
24 believe that in regards to your objections, your objection  
11:02:59 25 was to the abuse of position of trust, restitution, and

1 financial condition; is that correct, counsel?

2 MR. BELEVETZ: That is correct, Your Honor,  
3 with the first of those three being the primary objection.

4 THE COURT: Very well. Counselor.

11:03:20 5 MR. BELEVETZ: Your Honor, our position on the  
6 abuse-of-trust enhancement was laid out in our -- in our  
7 objection, but I want to just highlight a few things.

8 The objection is based upon the nature of  
9 the -- of the enhancement and, frankly, even the case law  
11:03:36 10 here in the Fifth Circuit that governs it. As the Court is  
11 aware, the enhancement applies to instances where the  
12 defendant abused a position of public or private trust, or  
13 used a special skill in a manner that significantly  
14 facilitated the commission or concealment of the offense  
11:03:51 15 and I am, of course, quoting 3B1.3.

16 In the application notes, Your Honor,  
17 there is a statement that the position of the public or  
18 private trust is characterized by professional or  
19 managerial discretion; that is, substantial discretionary  
11:04:09 20 judgment that is ordinarily given considerable deference.  
21 And then the commentary goes on to provide what can  
22 probably be described well as three classic examples of a  
23 position of trust: The lawyer who embezzles from a client;  
24 the bank executive who runs a fraudulent loan scheme; and  
11:04:25 25 the doctor who engages in sexual assault while supposedly

1 performing a medical exam.

2           The guidelines also, as the Court is  
3 aware, state that the enhancement applies sort of across  
4 the board to mail carriers, given the position of trust  
5 that they have been given.

11:04:43

6           The *United States vs. Kay*, Your Honor, is  
7 literally the only case in the entire country that has ever  
8 addressed the application of the abuse-of-trust enhancement  
9 with respect to an FCPA case. And in that case the Fifth

11:04:59

10 Circuit established a two-part test, which largely comes  
11 from the language of the guideline itself. The first part,  
12 first prong, is whether defendant occupied a position of  
13 trust; and the second is whether the defendant abused that  
14 position of trust in a manner that significantly

11:05:15

15 facilitated the commission of the -- or concealment of the  
16 offense.

17           Your Honor, we would submit that Mr. Ray  
18 meets neither of these prongs. He did not occupy a  
19 position of trust. No one placed their trust in him as,

11:05:28

20 for example, a patient places his trust in a doctor, or a  
21 client in a lawyer, or possibly even shareholders in a  
22 chief executive officer. He did not abuse his position of  
23 trust in a way that significantly facilitated the  
24 commission or concealment of the offense.

11:05:48

25           Under *Kay*, Your Honor, that means

1 occupying a position, a superior position, occupying a  
2 superior position relative to all people in a position to  
3 commit the offense as a result of his job. That comes  
4 directly from the case.

11:06:03

5 Your Honor, Mr. Ray was the owner, the  
6 co-owner, of a small business. He and his wife Sherrie are  
7 the only two shareholders. The company was so small that  
8 he did not occupy a superior position relative to anyone  
9 else who was in a position to commit the offense, like the  
10 defendant in *Kay*.

11:06:21

11 So, in those ways, Your Honor, the  
12 defendant is different than the defendant in *Kay*. He was  
13 the chief executive officer of a much larger publicly  
14 traded company who directed subordinates to pay bribes, and  
15 thereby harmed that company's shareholders.

11:06:38

16 If this enhancement applies, Your Honor,  
17 to Mr. Ray for bribing foreign officials, then candidly it  
18 must apply to virtually every defendant, and probably every  
19 defendant, not virtually, every defendant who has committed  
20 an FCPA offense.

11:06:57

21 THE COURT: Very well. Any response from the  
22 government?

23 MR. JONES: Briefly, Your Honor. Certainly,  
24 every case involving any type of fraud has some type of  
25 general abuse of trust in it. Regarding the specific

11:07:10



1 enhancement, however, we do agree with several of the  
2 points that the defense has brought up in that the facts,  
3 the specific facts, of this case on the FCPA count, do not  
4 necessarily rise to the level of the same type of abuse of  
11:07:30 5 trust that you saw in *Kay*. And it is a small company. It  
6 was -- he committed the offense, and the defendant  
7 committed the offense with Mr. Hernandez, who the Court is  
8 well aware of the facts of that case. And Mr. Hernandez  
9 was somebody who was -- certainly appeared to be at some  
11:07:51 10 level actively soliciting the bribes and/or payoffs in that  
11 case, which makes it a little bit different.

12                   And, of course, we understand that the  
13 Court can and should consider all of the facts of the  
14 commission of the offense, of how the defendant committed  
11:08:06 15 it, in assessing sentence, whether or not a certain  
16 provision applies or not. The facts are what govern your  
17 decision in this case, ultimately.

18                   And we also look at the fact that we do  
19 think it is significant, and we will be arguing it in the  
11:08:24 20 sentence, that this was, you know, essentially the business  
21 model of the defendant, was just going and getting some  
22 people involved in whoever the company or entity was, an  
23 insider, so to speak, to help the commission of the offense  
24 and the fraud scheme and ultimately the kickback scheme  
11:08:39 25 which resulted in the crimes in this case.

1 We do think that abuse of trust as a  
2 guideline enhancement would probably be more applicable to  
3 Count 2, in the sense that that is a general wire-fraud  
4 count being perpetrated by the defendant and his company,  
11:08:59 5 but we don't necessarily think on the facts of this case  
6 that would necessarily apply either. If it was a situation  
7 where this defendant had a business relationship with a  
8 company for 20 years or so, and had come to acquire the  
9 trust of that company as somebody who was, you know, this  
11:09:18 10 company and this defendant is completely reliable,  
11 everything has been proven 100 percent true over the years,  
12 and then began a scheme where he was abusing that trust  
13 that he had developed, then I think that might be a  
14 different scenario. But that isn't the facts of this case.

11:09:32 15 What we have here are relationships that  
16 began kind of instantaneously with this fraudulent business  
17 model, so it was kind of a scheme from the beginning and  
18 with an insider in every case.

19 So, I guess that's kind of a long way of  
11:09:46 20 saying that we don't necessarily disagree with what  
21 Mr. Belevetz raised. We are not saying the probation  
22 office is wrong. We understand why they scored it that way  
23 and how they scored it that way, but I don't believe that  
24 Kay really intended to go that specific, and that broadly  
11:10:08 25 in its application of that abuse-of-trust guideline. We

1 certainly think in the FCPA context that could be something  
2 that would apply in the facts of the case; but in this  
3 case, and in this circumstance, we don't believe it does  
4 apply.

11:10:22

5 And we have also factored all of those  
6 things that I have just discussed into our ultimate  
7 recommendation that we did make with our motion under seal;  
8 and depending on how the Court scored it, we may be making  
9 a slightly different recommendation. But we have taken all

11:10:36

10 of that into account with this defendant, who has  
11 cooperated in this case. So I guess, again, it is a long  
12 way of saying we don't necessarily disagree with  
13 Mr. Belevetz.

14 THE COURT: The objection is sustained.

11:10:52

15 Counselor, any other objections that the  
16 Court needs to turn its attention to?

17 MR. BELEVETZ: No, Your Honor.

18 THE COURT: Very well. Who is here from  
19 probation?

11:11:01

20 PROBATION OFFICER GARCIA: Jesus Garcia for  
21 probation, Your Honor.

22 THE COURT: Mr. Garcia, I believe, with the  
23 Court sustaining that objection by the defense from the  
24 presentence report that takes the total offense level to

11:11:14

25 29. Under my quick check under 29, and a criminal history

1 category of one, the range is 87 to 108. Is that correct?

2 PROBATION OFFICER GARCIA: It is, Your Honor.

3 THE COURT: And does that change the term of  
4 supervised release?

11:11:32 5 PROBATION OFFICER GARCIA: It does not.

6 THE COURT: Does it change the fine?

7 PROBATION OFFICER GARCIA: It does. Let me  
8 look at that, Judge.

9 THE COURT: Very well.

11:11:53 10 PROBATION OFFICER GARCIA: It remains the same,  
11 Your Honor.

12 THE COURT: Very well. Thank you, sir.

13 Mr. Ray.

14 THE DEFENDANT: Yes, Your Honor.

11:12:15 15 THE COURT: Your attorney has gone through the  
16 presentence report and made legal objections to them. Have  
17 you and your attorney discussed the presentence report?

18 THE DEFENDANT: Yes, Your Honor, we have.

19 THE COURT: Has he explained it to you and  
11:12:28 20 answered all of your questions?

21 THE DEFENDANT: Yes, Your Honor, he has.

22 THE COURT: Do you have any objections to the  
23 presentence report?

24 THE DEFENDANT: No, Your Honor, I do not.

11:12:35 25 THE COURT: Very well. Thank you, sir.

1 THE DEFENDANT: Thank you.

2 THE COURT: These are the Court's final  
3 guideline findings and legal conclusions: The total  
4 offense level is 29; the criminal history category is 1.

11:12:48

5 Based upon those determinations, the guidelines suggest as  
6 follows: A term of imprisonment of 87 to 108 months, a  
7 term of supervised release of one to three years, a fine of  
8 15,000 to \$150,000. In addition based upon the findings,  
9 restitution is due in the amount of \$589,698.87 as well as  
10 a \$200 special assessment.

11:13:20

11 What is the government's position on  
12 sentencing?

13 MR. GINGRAS: Your Honor, we think this was a  
14 serious offense. You have now seen a couple of these cases  
15 and understand the seriousness of this offense, especially  
16 the FCPA portion. And we think, as Mr. Jones said earlier,  
17 this was a business model. And I think he said in his  
18 sentencing memo he inherited it from his father, so it's  
19 been one that has been ongoing for a while.

11:14:03

20 And this is an industry, I think, looking  
21 at the deterrence factors of 35 -- 3553, that -- where they  
22 need to understand that this is -- this is a serious  
23 offense. That being said, the defendant certainly accepted  
24 responsibility, has provided substantial assistance to the  
25 government, went through his cooperation, as the Court is

11:14:27

1 aware through our motion, and in light of the -- your  
2 ruling on the abuse of trust, which provides a range of 87  
3 to 108 months, the government is recommending that a  
4 sentence of 58 months, which would be about a third -- or  
5 which would be a third off of the bottom of that guideline  
6 range would be a reasonable and appropriate sentence, and  
7 address the 3553(a) factors, including the seriousness of  
8 the offense and provide adequate deterrence.

11:14:48

9 THE COURT: Very well. What is the defense's  
10 position on sentencing?

11:15:04

11 MR. BELEVETZ: Your Honor, we want to emphasize  
12 that Mr. Ray accepts full responsibility for his conduct.  
13 He paid bribes to foreign officials and employees of  
14 private customers in order to win business for Global  
15 Aviation.

11:15:22

16 From the beginning of his investigation,  
17 Your Honor, he has demonstrated a desire to own up for what  
18 he did. He appears before Your Honor this morning contrite  
19 and remorseful.

11:15:36

20 Mr. Ray's father passed away in 1994 and  
21 when that happened Mr. Ray inherited a business with bad  
22 and, indeed, unlawful business practices that had already  
23 been in place. To call this, however, a fraudulent  
24 business model, I believe, is a significant overstatement.

11:15:53

25 Kickbacks, commissions, bribes were not

1 paid to each and every customer. They were typically done  
2 in one of two instances: Where the -- there had already  
3 been a preexisting practice of paying the bribes that had  
4 been established before Mr. Ray came onto the scene;

11:16:13

5 second, there are instances where with respect to new  
6 customers, the -- the point of contact within the  
7 customer -- there is always a point of contact. There is a  
8 pilot who maintains the aircraft or a mechanic who  
9 maintains the aircraft, and that is the person with whom

11:16:29

10 Mr. Ray would interface. These are the individuals who  
11 would typically make the request for the payment.

12                   One thing I would like to add, Your Honor,  
13 is in the victim-impact statement that was tendered by the  
14 Reaud law firm, the Court will recall that there were two  
15 statements from the mechanic from that -- from that

11:16:47

16 company, that law firm, a Tino DePaulis, and Mr. DePaulis  
17 claims that Mr. Ray is the one who initiated the  
18 arrangement. We dispute that. Mr. Ray did not initiate  
19 the arrangement. In fact, Mr. DePaulis did. And that's  
20 consistent with what is on the record with regard to other  
21 customers and that is reflected in the presentence report.

11:17:06

22                   Now, to be sure when these requests were  
23 made, he accepted the requests, and he did pay the  
24 kickbacks. He understood -- Mr. Ray understood that is the  
25 way business was done in Mexico; and sadly, for better or

11:17:24

1 worse, and clearly for worse, that's -- that is, in fact,  
2 often the case. I don't offer that to excuse the conduct  
3 but rather to provide some context in which -- in which the  
4 payments were made.

11:17:41

5 Mr. Ray did not have an affirmative desire  
6 to defraud, and I think that is important for the Court to  
7 understand. This was not, in other words, a predatory type  
8 of scheme. He wanted to obtain business in a competitive  
9 market, but he had no intention of ripping off his

11:18:00

10 customers. His goal was to provide high-quality work and  
11 parts at competitive prices. And even in Mr. DePaulis's  
12 statement you can see that that was, in fact, the case. He  
13 provided good value to the customer and provided high  
14 quality work.

11:18:14

15 A common theme, Your Honor, among the  
16 letters that we have submitted to the Court is the strength  
17 of Mr. Ray's character. He has a big heart. He has a  
18 generous heart. And throughout his life he has helped  
19 others with no expectation of anything in return.

11:18:28

20 He provided a welcoming home to his  
21 stepdaughter when he and his wife, Sherrie, got married.  
22 He provided employment and training skills to those who  
23 needed a hand. And love and support to his family,  
24 including his son, Ryan, who is here in the courtroom this

11:18:44

25 morning, to whom he is teaching the trade; and to his new



1 daughter-in-law Michelle, Ryan's -- Ryan's new wife.

2 I would like to talk briefly, Your Honor,  
3 about the cooperation that Mr. Ray provided. The  
4 government has filed a motion, as the Court is aware, under  
5 5K1.1 in recognition of the substantial assistance that  
6 Mr. Ray has provided. He has cooperated with the  
7 government from day one.

8 He made himself available for debriefings,  
9 both formal and informal, on numerous occasions. He has  
10 corroborated the evidence that the government had  
11 developed, and he has explained the evidence that the  
12 government had developed and already had.

13 He helped the government develop new  
14 evidence against others by cooperating proactively. He  
15 worked with the government to obtain evidence through  
16 recorded telephone calls and e-mail exchanges. He met --  
17 even met with targets of the investigation while wired, in  
18 other words face-to-face meetings, in order to obtain  
19 evidence. And that worked. Mr. Ray's efforts have lead to  
20 the successful prosecution of co-defendant Victor Valdez,  
21 who this Court sentenced last month.

22 The only thing, Your Honor, that Mr. Ray  
23 did not do as part of his cooperation is provide trial  
24 testimony. He never had the opportunity to do so. Had  
25 that been presented to him, he certainly would have. This

1 isn't unusual in FCPA cases. As the Court is probably  
2 aware, they typically don't go to trial.

3 In short, Your Honor, Mr. Ray did  
4 everything the government asked of him, and did it  
5 willingly and timely.

11:20:14

6 I would like to address the other  
7 sentences that -- that individuals have received in FCPA  
8 matters.

9 We are asking, Your Honor, for a  
10 below-guideline sentence of 18 months, and this is  
11 appropriate in the context of the sentences that others  
12 have received. It is nearly 25 percent longer than the  
13 average sentence received by defendants who have been  
14 convicted for FCPA offenses, but not money-laundering  
15 offenses, over the last six years, six and a half years  
16 nearly, which is 14.6 months. That is the average  
17 sentence for defendants who have not been convicted of a  
18 money-laundering offense. If you tack on money-laundering  
19 offenses which, of course, carry a higher statutory  
20 maximum, that average sentence is 23 months, and that is  
21 reflected in Exhibit 2 to our sentencing position.

11:20:41

11:20:59

22 It is also, Your Honor, consistent with  
23 the sentences similarly situated defendants in aircraft  
24 maintenance and aviation FCPA cases have received recently.

11:21:15

25 I want to call to the Court's attention

1 the case of Peter DuBois and Neal Uhl, who were sentenced  
2 in the Northern District of Oklahoma. They were both  
3 executives with BizJet. BizJet is a subsidiary of  
4 Lufthansa and was engaged in a similar business, aircraft  
5 maintenance and repair.

11:21:32

6                   These two individuals bribed some of the  
7 same Mexican agencies that Mr. Ray bribed. And at least in  
8 the case of Mr. DuBois, ended up with a guideline range of  
9 108 to 120 months. It's 120 because he was statutorily  
10 capped at that.

11:21:50

11                   Both Defendants, both Mr. DuBois and  
12 Mr. Uhl, received sentences of straight probation with  
13 eight months -- a special condition of eight months of home  
14 detention. Very similarly situated in terms of the facts,  
15 and the -- and the guideline range.

11:22:04

16                   I want to draw to the Court's attention  
17 the case of Mr. Perez, Daniel Perez, and Kamta Ramnarine.  
18 They were sentenced in the Southern District of Texas, in  
19 the Brownsville Division, to straight probation. These  
20 were also individuals -- these are related cases, the Court  
21 is aware. These are cases where these two individuals were  
22 employees of an aircraft maintenance and service -- repair  
23 company called Hunt Pan Am Aviation in Brownsville, who  
24 paid bribes to Mexican officials, including Ernesto  
25 Hernandez, who was also involved in this case.

11:22:40

1                   They're also consistent -- this is also --  
2 the 18 months recommended term of incarceration, Your  
3 Honor, is also consistent with the sentences that this  
4 Court has imposed on co-defendants in this case. Mr.  
11:22:57 5 Hernandez was sentenced by this court to 24 months. He is  
6 arguably more culpable than Mr. Ray.

7                   He was the one who initiated the request  
8 for payment. He is the one who worked at the Mexican  
9 government agency, the state of Tamaulipas -- excuse me --  
11:23:15 10 and who owed a duty of loyalty and who abused the position  
11 of trust with respect to his employer, that Mexican state.  
12 This Court sentenced Mr. Hernandez to 24 months.

13                   Mr. Valdez is the other co-defendant in  
14 this matter, and this Court a few weeks ago sentenced him  
11:23:34 15 to a year and a day. Mr. Valdez's conduct is not as  
16 egregious, not as extensive as Mr. Ray's. Mr. Valdez was  
17 Mr. Ray's local agent in Mexico, who helped broker a lot of  
18 these deals. Mr. Ray's conduct, Your Honor, we would  
19 submit, fits in somewhere in-between that of Mr. Hernandez  
11:23:55 20 and Mr. Valdez.

21                   Your Honor, for these reasons, we would  
22 ask the Court to impose a sentence of 18 months, taking  
23 into account Mr. Ray's contrition, his remorse, his  
24 immediate and extensive cooperation, his character, the  
11:24:14 25 fact that this really was a one-off aberration. It is

1 something that he understands was unlawful. As we  
2 mentioned in our sentencing brief, he has learned his  
3 lesson and has learned it well.

4 He intends to do important work in the  
11:24:30 5 future, continuing the business of the company, teaching  
6 his son, Ryan, the trade, and continuing to maintain  
7 aircraft and provide safe aircraft for his customers.

8 THE COURT: Thank you, counselor.

9 Mr. Ray, this is your opportunity to  
11:24:53 10 address me, and to tell me anything that you wish me to  
11 consider. As your counselor has pointed out, I have been  
12 involved in this case with two of your other co-defendants,  
13 and two other co-defendants were sentenced by this Court,  
14 in another division.

11:25:20 15 I sustained your counselor's objection to  
16 the abuse-of-trust point that he raised; but without  
17 question, you were in a position to, put it bluntly, know  
18 better as a CEO of a company, a citizen of this country,  
19 knowing what our expectations are for citizens to do when  
11:25:58 20 it comes to the laws of this country.

21 Having stated that, as your counselor has  
22 also noted, in regards to two of your co-defendants, by my  
23 view, you do fall somewhat in-between or perhaps in the  
24 same category as Mr. Hernandez, but I want to hear from you  
11:26:25 25 as to your explanation, and for what you wish for me to

1 consider. Mr. Ray.

2 THE DEFENDANT: Your Honor, thank you for this  
3 opportunity. I do agree with you. I could have stopped  
4 this at any time. My counsel was right. It was a business  
11:26:41 5 practice inherited from my father. I am remorseful for  
6 that. I wish that it never happened. I have brought down  
7 my wife. My son has had to change his life. Victor Valdez  
8 is now in prison because of that, too, and I at any time  
9 could have told him no.

11:27:00 10 It is the way that business is done in  
11 Mexico. It doesn't mean that is the way we have to do  
12 business here. I should have set an example in this  
13 industry. I have been asked a couple of times since that  
14 day for the same thing. Not only have I said no, but I  
11:27:15 15 have explained to them, without going into details of my  
16 own conflict I am going through, why that -- they shouldn't  
17 be doing that, and the consequences that I am now seeing to  
18 those customers that -- why they shouldn't do it. And I  
19 hope I have made an impact in their life, to knowing that  
11:27:30 20 they should not do that.

21 And if Your Honor will let me, I have a  
22 couple of things I would like to do some public apologies  
23 to, if I may take this opportunity.

24 First of all, I would like to apologize to  
11:27:40 25 my God. In Luke 12 it says that he will provide for all my

1 needs. I didn't let Him do that. I took things into my  
2 own account. I do trust in Him, and He always provided for  
3 me. Yet, these circumstances, I went outside that realm  
4 and operated outside of His guidelines, and here I stand  
5 today because of that.

11:27:57

6 I would like to apologize to the citizens  
7 of Mexico, the people who pay the taxes that brought the  
8 airplanes to us. Those funds were used incorrectly. I see  
9 those citizens down there. It's a poor country, and I  
10 realize that money is pretty tight down there, and I abused  
11 that, that position that I had, and let them down.

11:28:15

12 I -- also with the Reaud law firm and a  
13 couple other private companies, they placed a confidence in  
14 me that not only will I deliver a safe airplane, but I will  
15 have their best interest at heart, and I did not. I was  
16 allowed to -- I allowed others to dictate how I did that  
17 business, and that will not happen again.

11:28:34

18 I would like to apologize to my wife, who  
19 has been going down this road with me for probably  
20 two-and-a-half years with a civil suit. It has taken an  
21 emotional toll on her, a physical toll. She will now be  
22 left to make decisions, with my incarceration, and to try  
23 to carry on the best she can.

11:28:49

24 I am the primary salesperson at the  
25 company so this is going to be a struggle. That is the

11:29:06

1 reason I brought my son in to try to at least help that.

2 He is doing a great job. She made a covenant with me 32

3 years ago for better or for worse, and this is definitely

4 the worst. So I just want to say -- tell her thank you

11:29:25

5 right now, and it's very important to me. It has helped me

6 get through this.

7 To my son, who has stayed in the house

8 with his new bride, moved into the business, postponed his

9 education, postponed his -- his plans for his future and

11:29:43

10 what he wants to do -- he wants to do law enforcement -- I

11 tell him thank you for that and I hope one day I can repay

12 him.

13 He has -- about three years ago he came

14 home with a tattoo on his arm that says "family." I didn't

11:29:59

15 think much of it, but he has sure shown that that is not

16 just letters on his arm. That's -- that's --

17 To my two daughters I have not told yet

18 because I am ashamed, to the United States of America, I

19 apologize for having spent their resources on this. They

11:30:27

20 could have been utilized elsewhere. It was never my

21 intention to defraud, after going through this, but just to

22 bring business to the company. I would also like to also

23 apologize to the Court for its time, that they are having

24 to do this also.

11:30:45

25 Moving forward, I have become more aware



1 of my conduct and the laws concerning it. I am an advocate  
2 about this conduct, and would continue to be so if asked,  
3 or have the opportunity to share. I know this has no place  
4 in our society. It does create an unfair advantage for  
5 other people, for other businesses.

11:31:03

6 I stand here for the unspoken victims of  
7 this crime, the citizens of Mexico, the private companies.  
8 I ask for their forgiveness.

9 I would also like to say one other thing,

11:31:22

10 that all through this, the prosecutors, the agents, the  
11 probation officers, everybody has treated me with respect  
12 and dignity, and I don't feel like I deserve it, but they  
13 did. And I thank you guys. That's it.

14 THE COURT: Thank you, sir.

11:31:42

15 Have a seat. The Court had noted earlier  
16 that it was in receipt of a victim-impact statement. The  
17 Court has reviewed that victim-impact statement. Are there  
18 any victims here who wish to give a statement?

19 MR. JONES: I don't believe we have any, Your  
20 Honor.

11:32:16

21 THE COURT: Very well. Anything else from the  
22 government?

23 MR. GINGRAS: Nothing, Your Honor.

24 THE COURT: Anything else from the defense?

11:32:24

25 MR. BELEVETZ: No, Your Honor.

1 MR. JONES: Your Honor, there is one issue the  
2 probation officer brought to my attention. There is  
3 restitution amounts that are listed in the presentence  
4 report as amended by the objections. I think it's a -- the  
5 Court stated it earlier, I think it's a \$598,000.

11:33:53

6 THE COURT: 589,698.87.

7 MR. JONES: Yes, Your Honor. And the bulk of  
8 that is from the Reaud law firm and the injury that they  
9 suffered, financial injury.

11:34:06

10 Now, Mr. Reaud submitted the victim-impact  
11 statement, and I think in there, there is a slightly  
12 different amount; and so, I do believe it is necessary for  
13 the Court to make a ruling on the issue of restitution. I  
14 would say that the restitution amount in the presentence  
15 report regarding the Reaud law firm, the 533,000, or  
16 whatever the exact amount was, we believe that is correct.

11:34:21

17 I am not saying Mr. Reaud is providing  
18 false information to the Court or anything like that. We  
19 don't know exactly all of the ins and outs of how he came  
20 up with that, but it is a little bit higher. We think that  
21 the amount in the presentence report is correct, and that  
22 should be the amount on the judgment. And I do believe  
23 that the Reaud law firm, this is a really --

11:34:38

24 THE COURT: Where is the amount in that -- the  
25 contrary amount? I am looking at that and I don't see it.

11:34:58

1 Oh, I see it. 557? Is that the contrary amount you are  
2 referring to?

3 MR. JONES: Yes, Your Honor, from the  
4 victim-impact statement.

11:35:09

5 THE COURT: Very well. Thank you.

6 MR. JONES: And the Reaud law firm does have --  
7 and I know it isn't binding on this Court or anything, but  
8 they do have, I believe, still the civil lawsuit going on.  
9 Of course, there are many other remedies that a victim like

11:35:22

10 that can take to make themselves whole, even if they  
11 thought this Court didn't do that. We just wanted to bring  
12 that to the Court's attention.

13 THE COURT: Very well. Thank you.

14 The Court has considered the guidelines

11:36:40

15 and finds a departure is warranted. Pursuant to the  
16 Sentencing Reform Act of 1984, it is the judgment of the  
17 Court that the Defendant Douglas Ray is hereby committed to  
18 the custody of the Bureau of Prisons to be imprisoned for a  
19 term of 18 months as to Count 1, and as to Count 2 an  
20 additional 18 months to be served concurrently.

11:37:08

21 While on supervised release, the defendant  
22 shall not commit another federal, state or local crime,  
23 shall comply with the standard conditions that have been  
24 adopted by this Court under General Order Number 2017-01,  
25 abide by any mandatory conditions required by law, and

11:37:24

1 shall comply with the following additional conditions:

2                   You must cooperate in the collection of a  
3 DNA sample as directed by the probation officer. You must  
4 not own, possess, or have access to a firearm, ammunition,  
5 destructive device, or dangerous weapon, or anything --  
6 anything else that was designed to cause bodily injury.

7                   You must provide the probation office  
8 access to any requested financial information and authorize  
9 the release of any financial information. The probation  
10 officer may share the information with the United States  
11 Attorney's Office.

12                   It is further ordered that the defendant  
13 shall pay restitution totaling \$589,698.87 as outlined in  
14 the presentence report. The defendant's restitution  
15 obligation shall not be affected by any restitution  
16 payments that may be made by other defendants in this case  
17 except that no further payments shall be required after the  
18 sum of the amounts paid by all defendants has fully covered  
19 all the compensable losses.

20                   It is further ordered that the defendant  
21 shall pay to the United States a special assessment of  
22 \$200. The Court finds that the defendant does not have the  
23 ability to pay a fine, and the Court will waive a fine in  
24 this case.

25                   Having assessed the defendant's ability to

1 pay, payment of the total criminal monetary penalties shall  
2 be due as follows: The defendant shall make a lump-sum  
3 payment of \$200 due immediately, balance due in 25 percent  
4 of any wages earned while in prison in accordance with the  
11:38:59 5 Bureau of Prisons Inmate Financial Responsibility Program.  
6 Any balance remaining after release from imprisonment shall  
7 be due in monthly installments of \$300 to commence 60 days  
8 after release from imprisonment to a term of supervision.  
9 Payment is to be made through the United States District  
11:39:18 10 Clerk, Southern District of Texas.

11 Anything else from the defense -- I mean,  
12 from the government?

13 MR. JONES: Your Honor, I may have just missed  
14 it, but did the Court assess a supervised-release term?

11:39:28 15 THE COURT: Yes. I apologize. A term of  
16 supervised release of three years.

17 MR. JONES: Thank you, Your Honor. And just  
18 one other thing, there is an unopposed motion for  
19 preliminary order of forfeiture in the case.

11:39:44 20 THE COURT: Yes, I have that order.

21 MR. JONES: And with the --

22 THE COURT: Hold on.

23 MR. JONES: I'm sorry. With the proposed  
24 order?

11:39:52 25 THE COURT: I have it and that order has been

1 signed.

2 MR. JONES: That is all we have, Your Honor.

3 THE COURT: Anything else from the defense?

4 MR. BELEVETZ: No, Your Honor.

11:40:01 5 THE COURT: Probation?

6 PROBATION OFFICER GARCIA: No, Your Honor.

7 THE COURT: Very well. Mr. Ray --

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: -- your statement here today moved  
11:40:12 10 the Court, and not only your apology to the citizens of  
11 Mexico, the citizens of this country, but the Court noted  
12 the apology to your family as well as the prosecutors and  
13 the probation officers involved in this case.

14 I hope that you're good at your word, and  
11:40:44 15 that you will serve as a model to others in this business  
16 to make sure that they don't walk this road because this is  
17 the consequence of those decisions. And I hope that when  
18 you return to your family, and you return to your business,  
19 you are a better man for the experience, and that you are a  
11:41:06 20 role model for those who are likewise engaged in this  
21 business.

22 THE DEFENDANT: I am, Your Honor. Thank you.

23 THE COURT: Mr. Ray, you can appeal your  
24 conviction if you believe that your guilty plea was  
11:41:18 25 unlawful or involuntary, or there is some other fundamental

1 defect in the proceeding that was not waived by your guilty  
2 plea. Under some circumstances, the defendant also has the  
3 right to appeal the sentence; however, a defendant may  
4 waive that right as part of the plea agreement, and you  
5 have entered into a plea agreement which waives some or all  
6 of your rights to appeal the sentence itself. Such waivers  
7 are generally enforceable; but if you believe that waiver  
8 itself is not valid, you can present that theory to the  
9 appellate court.

11:41:33

10 If you appeal, that appeal must be filed  
11 within 14 days of the entry of judgment. If you cannot  
12 afford to pay the costs of appeal, you can ask to proceed  
13 without payment of costs, and you have the right to have an  
14 attorney appointed to represent you on appeal if you cannot  
15 afford an attorney.

11:42:02

16 Counselor, as to remand, what say you?

17 MR. JONES: Well, if they make a motion to stay  
18 out and voluntarily surrender, we are not opposed to that.  
19 I presume they will.

11:42:17

20 MR. BELEVETZ: We do make that motion, Your  
21 Honor, and I would like to just add one more thing.  
22 Recognizing fully what the Court advised counsel for the  
23 defendant in the prior proceeding said, we would like to  
24 recommend -- ask the Court, rather, to recommend to the BOP  
25 a designation to a facility as close to Houston as

11:42:30

1 possible. And if the Court is inclined to do so  
2 specifically, FPC Bastrop.

3 THE COURT: An order in regards to the motion  
4 to voluntarily report, that motion is granted without  
5 objection.

11:42:50

6 Mr. Ray, while you have been out on bond,  
7 pending this sentencing hearing, there were certain  
8 conditions that were imposed upon you. Those conditions  
9 remain in effect until your report date when you are so  
10 notified by the Court. Do you understand?

11:43:07

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: Very well. As to counsel's second  
13 request regarding a recommendation to BOP, I am not  
14 inclined to do so at this time.

11:43:20

15 Once BOP has made an assignment, and if  
16 you have issue with it, then bring that to the Court's  
17 attention. But as to making a preemptive strike, so to  
18 speak, as to what their discretion requires based upon  
19 their facilities, the Court is not inclined to do so at  
20 this time.

11:43:39

21 MR. BELEVETZ: Understood.

22 THE COURT: Very well. Anything else from the  
23 government?

24 MR. JONES: No, Your Honor.

11:43:41

25 THE COURT: Anything else from the defense?



1 MR. BELEVETZ: One more minor thing, Your  
2 Honor. Mr. Ray, if it is acceptable to the pretrial  
3 services office, officer, and to the Court, would like to  
4 pay a visit to his daughter and grandchildren who live in  
5 Oklahoma City. It would be a two-night trip. It would be  
6 next weekend, beginning Friday, returning Sunday.

11:43:58

7 THE COURT: Typically, the Court has not  
8 approved travel out of state for social travel. I have  
9 allowed travel out of state for medical and to attend  
10 funerals, and the like. But typically, I have not -- with  
11 all due respect, Mr. Ray is a convicted felon and there are  
12 certain consequences that come with that. And so with that  
13 being said, that request is denied.

11:44:28

14 Anything else from probation?

11:44:48

15 PROBATION OFFICER GARCIA: No, Your Honor.

16 THE COURT: Very well. We're adjourned and you  
17 are excused.

18 MR. JONES: Thank you, Your Honor.

19 (Concluded at 11:45 a.m.)

20 COURT REPORTER'S CERTIFICATE

21 I, Kathleen K. Miller, certify that the foregoing is a  
22 correct transcript from the record of proceedings in the  
23 above-entitled matter.

24 DATE: April 5, 2017 /s/ Kathleen K. Miller, RPR, RMR, CRR  
25